# IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

EVOLVED WIRELESS, LLC,	)
Plaintiff,	) C.A. No. 15-542-JFB-SRF
v.	) <b>JURY TRIAL DEMANDED</b>
APPLE, INC.,	) ) PUBLIC VERSION
Defendant.	) )
EVOLVED WIRELESS, LLC,	) )
Plaintiff,	) C.A. No. 15-543-JFB-SRF
v.	) ) JURY TRIAL DEMANDED
HTC CORPORATION, and HTC AMERICA, INC.,	) ) PUBLIC VERSION )
Defendants.	) )
EVOLVED WIRELESS, LLC,	)
Plaintiff,	) C.A. No. 15-544-JFB-SRF
v.	) ) JURY TRIAL DEMANDED
LENOVO GROUP LTD., LENOVO (UNITED STATES) INC., and MOTOROLA MOBILITY LLC,	) ) PUBLIC VERSION ) )
Defendants.	) )
EVOLVED WIRELESS, LLC,	<i>)</i> )
Plaintiff,	) C.A. No. 15-545-JFB-SRF
v.	) <b>JURY TRIAL DEMANDED</b>
SAMSUNG ELECTRONICS CO., LTD. and SAMSUNG ELECTRONICS AMERICA, INC.,	) ) PUBLIC VERSION )
Defendants.	) )

EVOLVED WIRELESS, LLC,	)
Plaintiff,	) C.A. No. 15-546-JFB-SRF
v.	) JURY TRIAL DEMANDED
ZTE (USA) INC.,	) PUBLIC VERSION
Defendant.	) ) )
EVOLVED WIRELESS, LLC,	)
Plaintiff,	) C.A. No. 15-547-JFB-SRF
v.	) JURY TRIAL DEMANDED
MICROSOFT CORPORATION, MICROSOFT MOBILE OY and NOKIA INC.,	) PUBLIC VERSION
Defendants.	) ) )

DEFENDANTS' OPENING BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OF TO U.S. PATENT NO. 7,809,373

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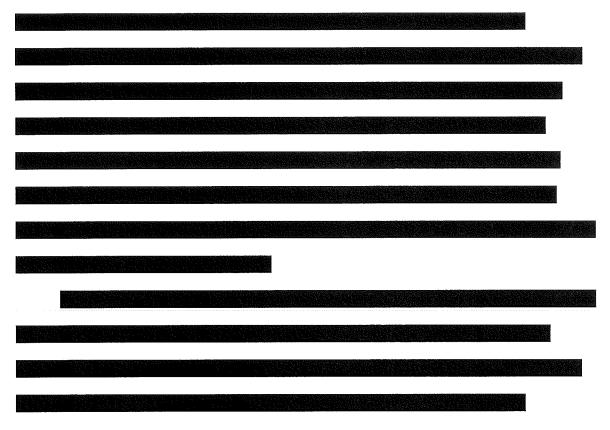
# NOTES OF CITATIONS

The Declaration of Michael D. Jay in support of Defendants' Opening Brief ("Jay Decl.") references the majority of the documents relevant to the present motion and opening brief. For those portions of the brief where defendant-specific citations are required, the brief cites to sections of Appendix B, which is filed concurrently herewith. Each section of Appendix B maps the specific cites to each listed Defendant. The following declarations are cited in Appendix B, in support of defendant-specific portions of the brief:

- Declaration of Martin Bader in support of HTC's Motion ("Bader Decl.")
- Declaration of Todd M. Briggs in support of Samsung's Motion ("Briggs Decl.")
- Declaration of Kenneth Crisler in support of Motorola's Motion ("Crisler Decl.")
- Declaration of Heikki Heinaro in support of Microsoft's Motion ("Heinaro Decl.")
- Declaration of Waiman Lam, in support of ZTE's Motion ("Lam Decl.")
- Declaration of Taylor H. Ludlam in support of Motorola's Motion ("Ludlam Decl.")
- Declaration of Hersh H. Mehta in support of ZTE's Motion ("Mehta Decl.")
- Declaration of Seungkyun Oh in support of Samsung's Motion ("Oh Decl.")
- Declaration of Ellen S. Robbins in support of Microsoft's Motion ("Robbins Decl.")
- Declaration of Frank Wu in support of HTC's Motion ("Wu Decl.")

# I. INTRODUCTION

<sup>&</sup>lt;sup>1</sup> "Defendants" refers collectively to Apple Inc., HTC Corporation, HTC America, Inc., Lenovo (United States) Inc., Motorola Mobility LLC, Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., ZTE (USA) Inc., Microsoft Corporation, Microsoft Mobile Oy, and Microsoft Mobile Inc. (f/k/a Nokia Inc.).



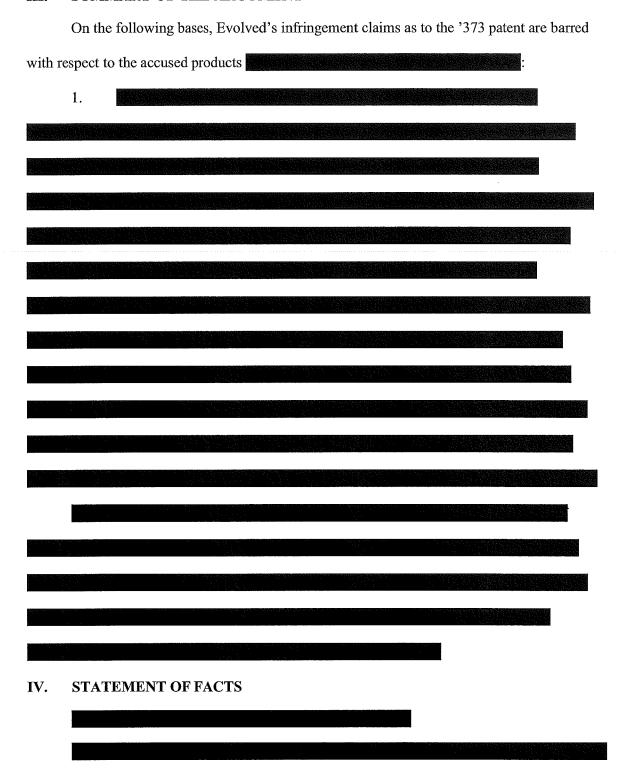
#### II. NATURE AND STAGE OF THE PROCEEDINGS

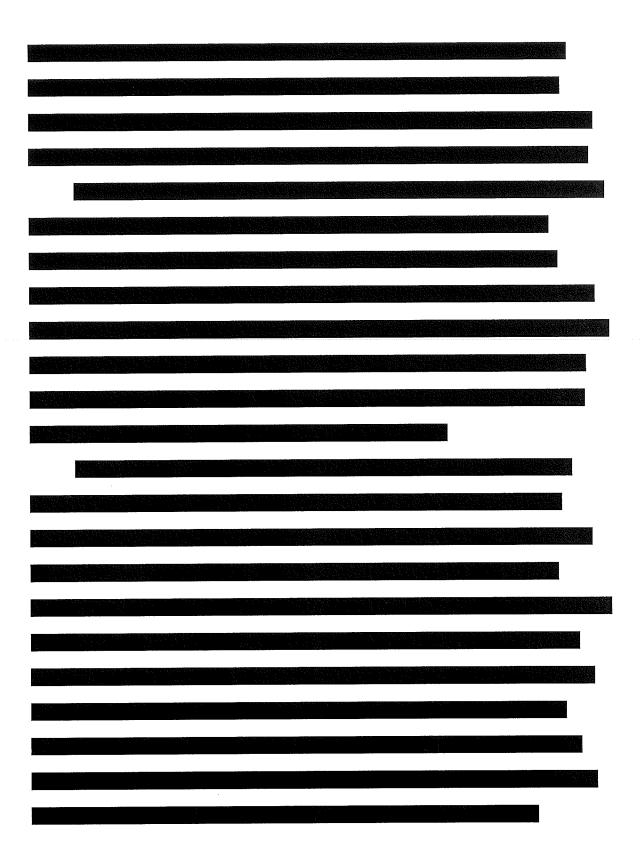
On June 25, 2015, Evolved filed six related actions against Defendants, asserting patent infringement claims on five patents declared "essential" to the Long-Term Evolution ("LTE") wireless communications standard. (D.I. 1.) Evolved accuses various mobile devices that are compatible with LTE networks. Defendants answered Evolved's Complaints, denying that they infringed the patents-in-suit and asserting numerous affirmative defenses and counterclaims. The parties have engaged in extensive fact and expert discovery. Fact discovery closed on April 10, 2017, and expert discovery closed on August 23, 2017.

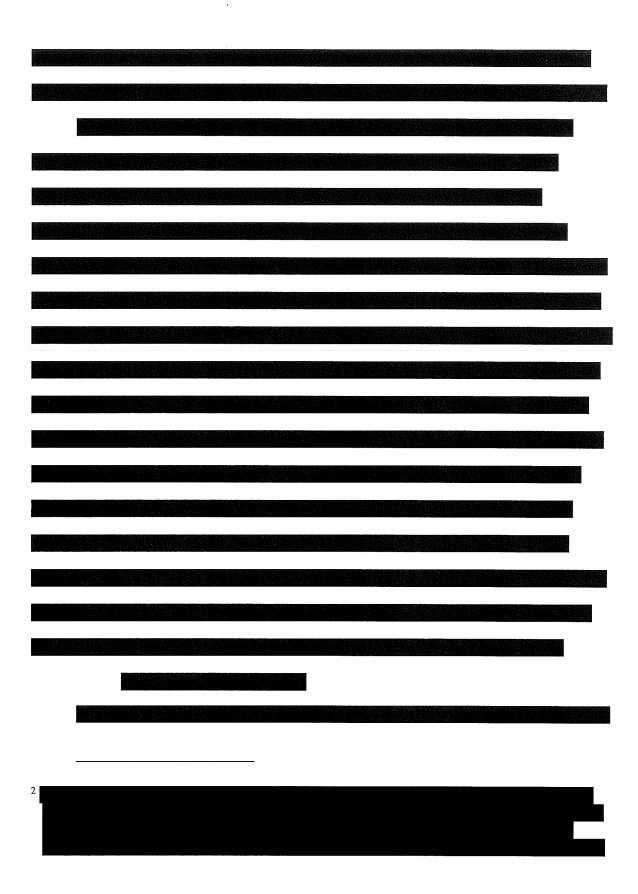
In July 2017, after having litigated the patents-in-suit for over two years, and after defendants had served two rounds of expert reports (on invalidity and non-infringement), Evolved approached Defendants about dismissing three of the patents-in-suit. Ultimately the parties stipulated to dismissal of these three patents, leaving only two patents-in-suit: the '373

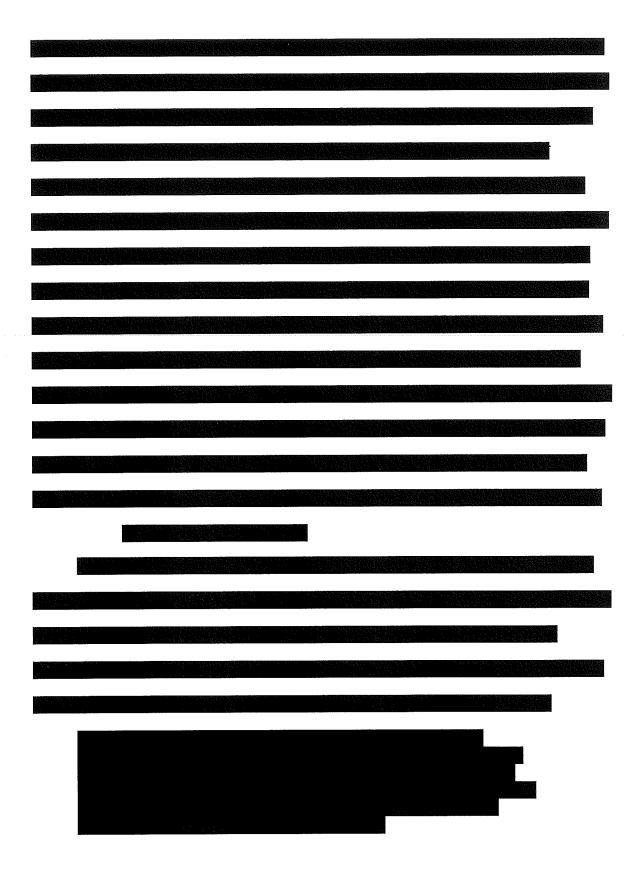
patent and U.S. Patent No. 7,881,236.

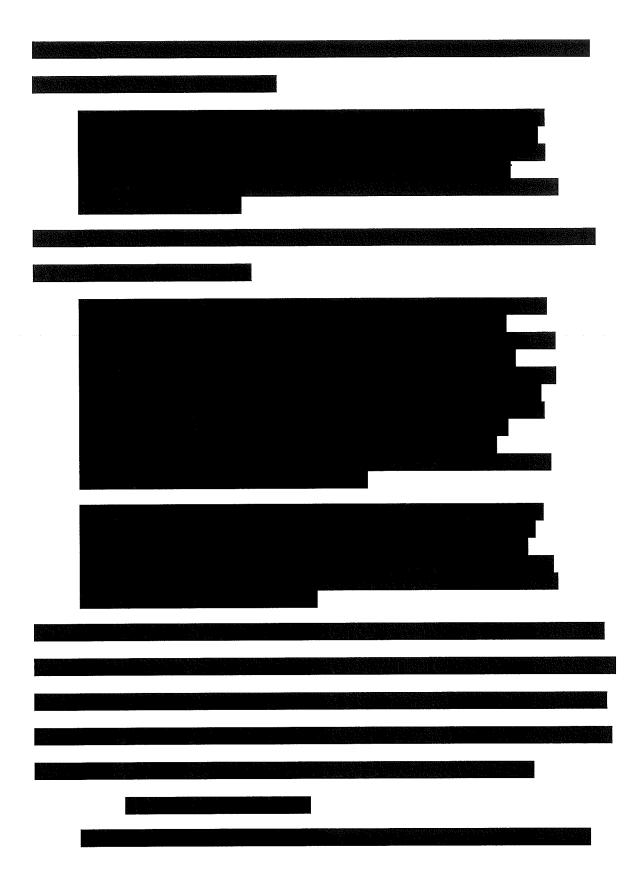
# III. SUMMARY OF THE ARGUMENT

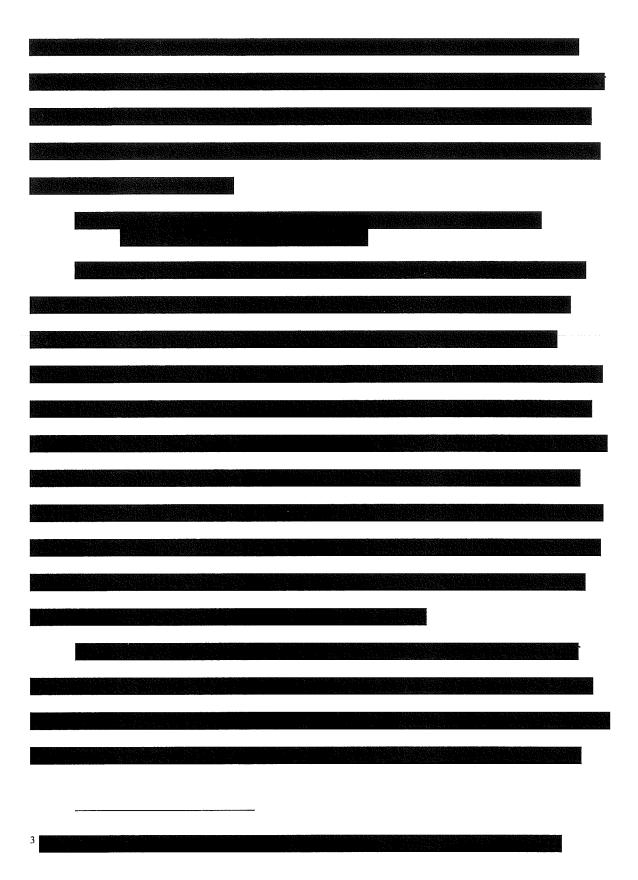










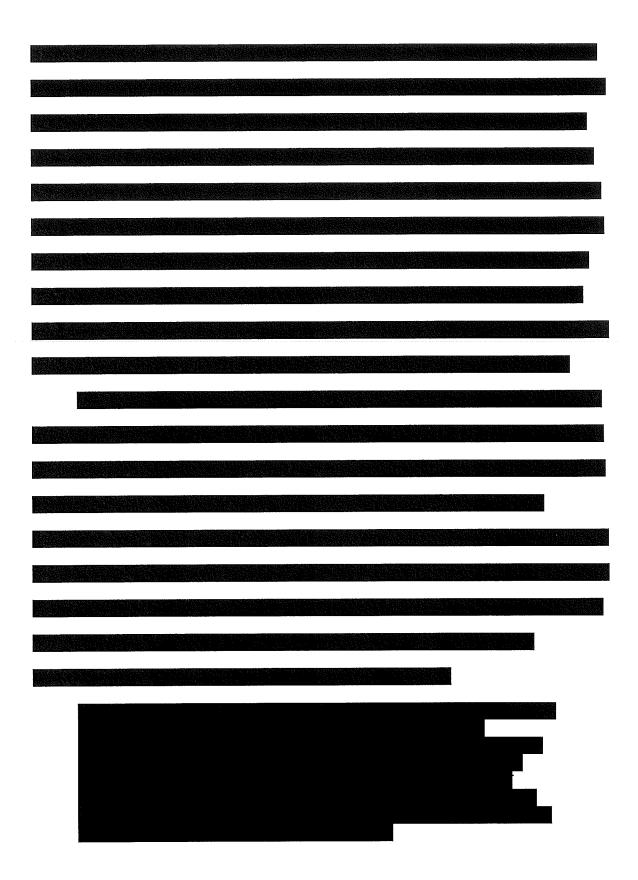


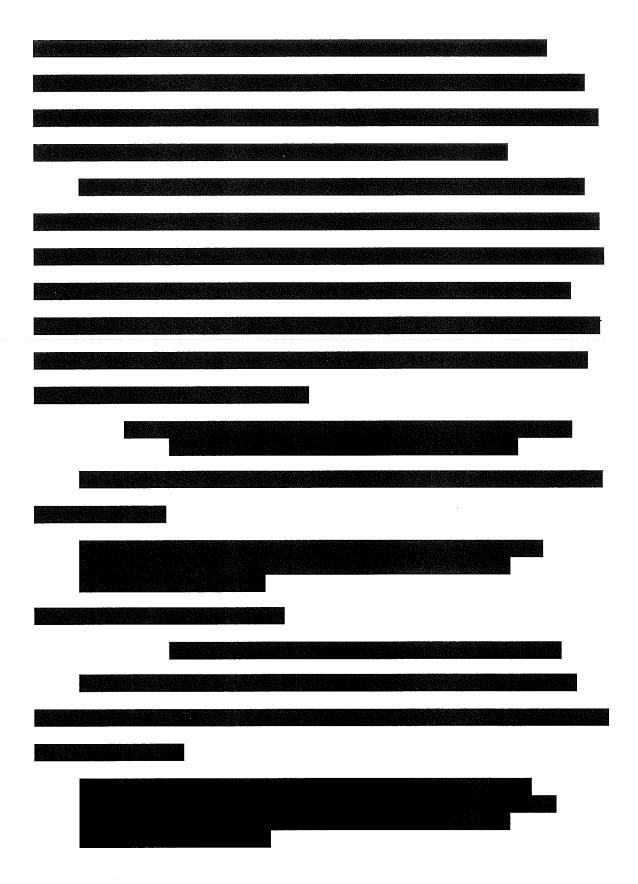
#### V. ARGUMENT

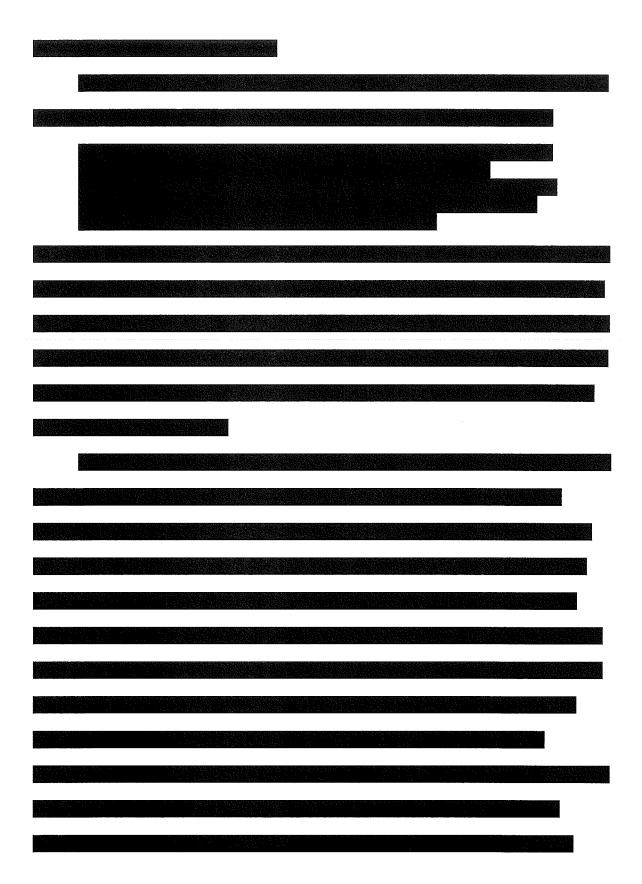
## A. Legal Standard

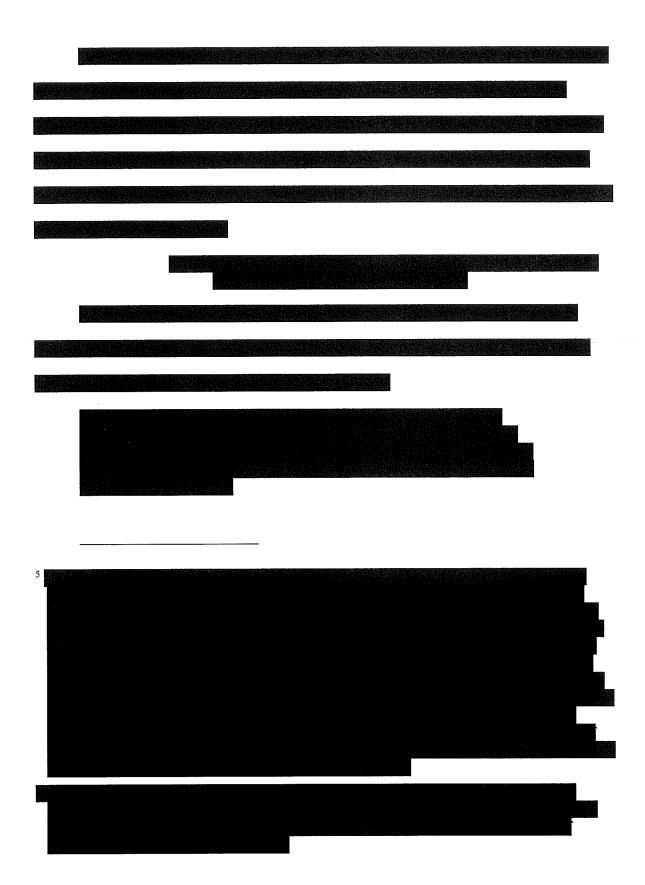
Summary judgment is appropriate if there is no genuine issue of material fact, and no reasonable factfinder could return a verdict for the non-moving party. *Celotex Corp. v. Cattrett*, 477 U.S. 317, 322 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); Fed. R. Civ. P. 56(a). To avoid summary judgment, the non-moving party must present significantly probative evidence that there is a genuine issue for trial. *Anderson*, 477 U.S. at 249-250. Although evidentiary inferences must be drawn in favor of the non-moving party, Evolved must do more than "show that there is some metaphysical doubt as to the material facts," or offer unsupported speculation. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986); *Podobnik v. U.S. Postal Serv.*, 409 F.3d 584, 594 (3d Cir. 2005).

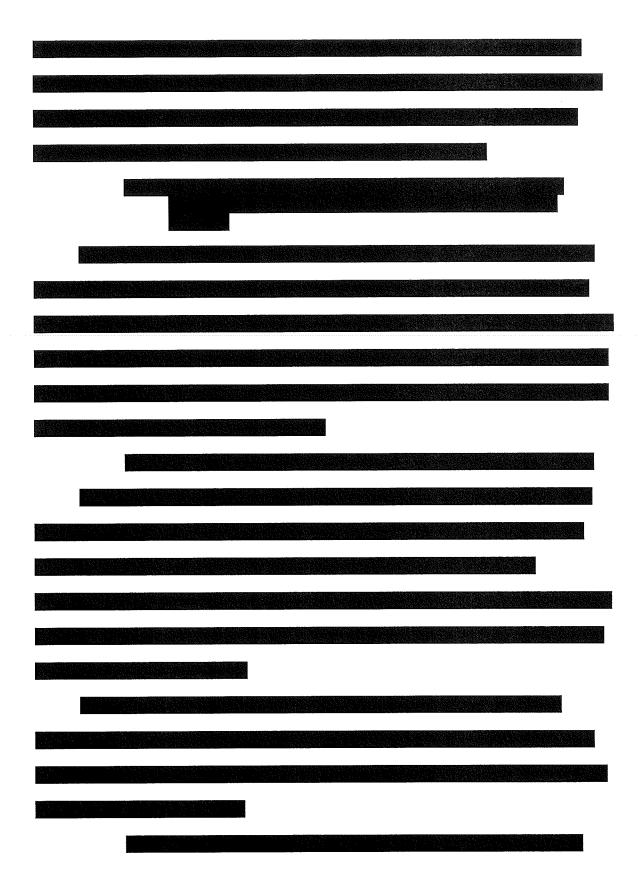


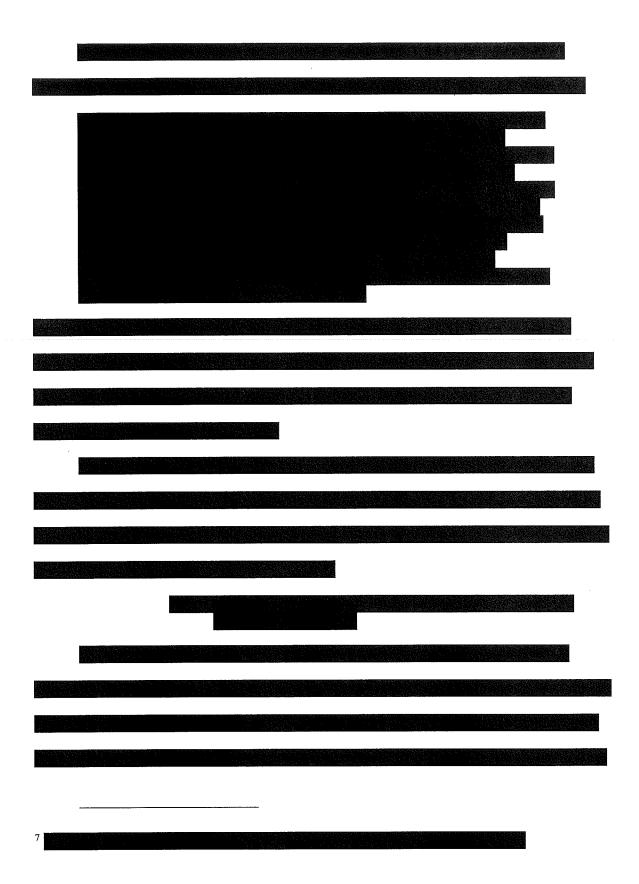


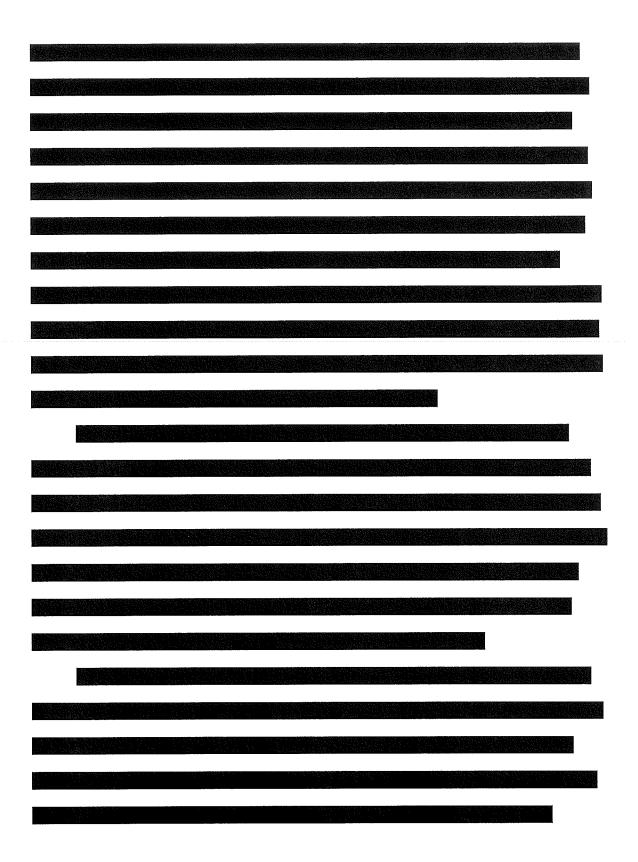


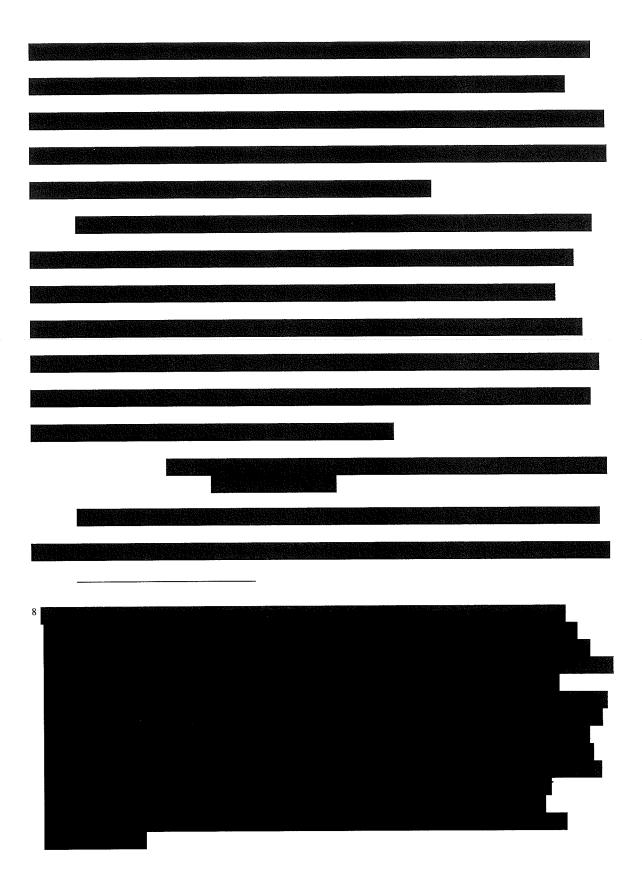




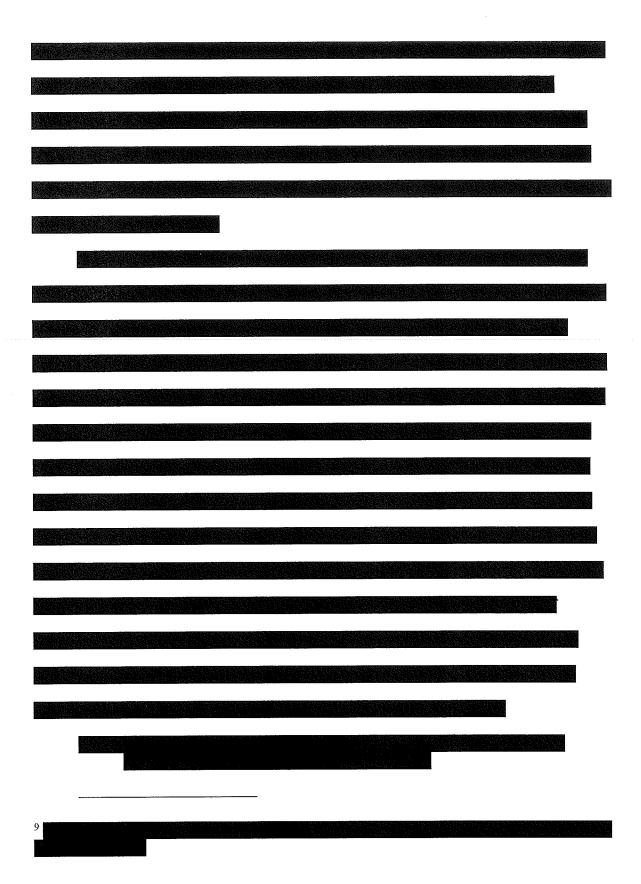


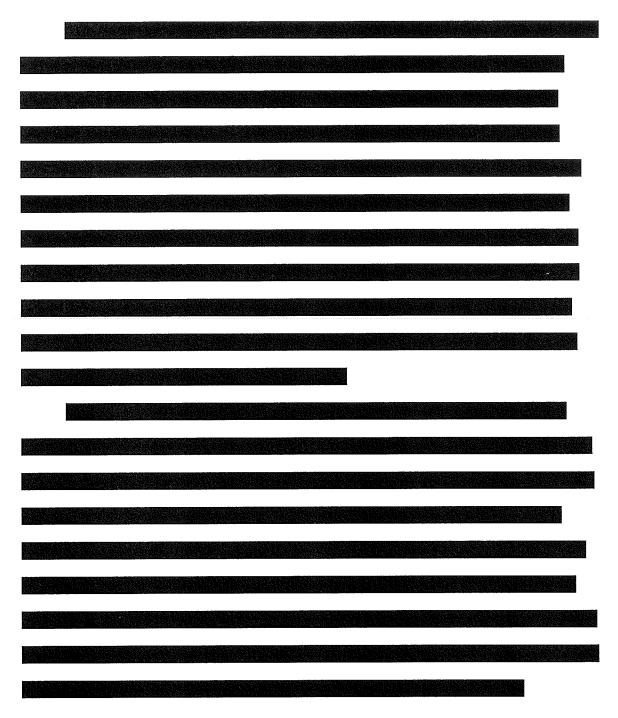












#### VI. CONCLUSION

For the foregoing reasons, Defendants respectfully request the Court to enter summary judgment finding that Evolved is barred from asserting its claims that Defendants infringe the '373 patent based on Defendants' Accused Products.

# Respectfully submitted,

## POTTER ANDERSON & CORROON LLP

#### OF COUNSEL:

Michael D. Jay
Bill Ward, Ph.D.
Nandan R. Padmanabhan
Micol Small
Martin Ellison
BOIES, SCHILLER & FLEXNER LLP
401 Wilshire Blvd., Suite 850
Santa Monica, CA 90401
Tel: (310) 752-2400

Steven Holtzman
BOIES, SCHILLER & FLEXNER LLP
1999 Harrison Street, Suite 900
Oakland, CA 94612
Tel: (510) 874 1000

# By: /s/David E. Moore

David E. Moore (#3983)
Bindu A. Palapura (#5370)
Stephanie E. O'Byrne (#4446)
Hercules Plaza, 6<sup>th</sup> Floor
1313 N. Market Street
Wilmington, DE 19801
Tel: (302) 984-6000
dmoore@potteranderson.com
bpalapura@potteranderson.com
sobyrne@potteranderson.com

Counsel for Defendant Apple Inc.

#### OF COUNSEL:

Stephen S. Korniczky
Martin R. Bader
SHEPPARD, MULLIN, RICHTER &
HAMPTON, LLP
12275 El Camino Real, Suite 200
San Diego, CA 92130
Tel: (858) 720-8900

#### POTTER ANDERSON & CORROON LLP

By: /s/Philip A. Rovner
Philip A. Rovner (#3215)
Jonathan A. Choa (#5319)
Hercules Plaza, 6<sup>th</sup> Floor
1313 N. Market Street
Wilmington, DE 19801
Tel: (302) 984-6000
provner@potteranderson.com
jchoa@potteranderson.com

Counsel for Defendants HTC Corporation and HTC America, Inc.

#### OF COUNSEL:

Mitchell G. Stockwell Richard W. Goldstucker Shayne E. O'Reilly KILPATRICK TOWNSEND AND STOCKTON LLP 1100 Peachtree Street, Suite 2800 Atlanta, GA 30309 Tel: (404) 815-6500

Taylor H. Ludlam
KILPATRICK TOWNSEND AND STOCKTON LLP
4208 Six Forks Road, Suite 1400
Raleigh, NC 27609
Tel: (919) 420-1700

#### OF COUNSEL:

Kevin P.B. Johnson
Victoria F. Maroulis
Todd M. Briggs
Charles M. Stiernberg
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
555 Twin Dolphin Dr., 5th Floor
Redwood Shores, CA 94065
Tel: (650) 801-5100

#### POTTER ANDERSON & CORROON LLP

By: /s/David E. Moore

David E. Moore (#3983)
Bindu A. Palapura (#5370)
Stephanie E. O'Byrne (#4446)
Hercules Plaza, 6<sup>th</sup> Floor
1313 N. Market Street
Wilmington, DE 19801
Tel: (302) 984-6000
dmoore@potteranderson.com
bpalapura@potteranderson.com
sobyrne@potteranderson.com

Counsel for Defendants Lenovo Group Ltd., Lenovo (United States) Inc. and Motorola Mobility LLC

#### SHAW KELLER LLP

By: /s/Andrew E. Russell

John W. Shaw (#3362)
Karen E. Keller (#4489)
Andrew E. Russell (#5382)
David M. Fry (#5486)
I.M. Pei Building
1105 N. Market Street, 12th Floor
Wilmington, DE 19801
Tel: (302) 298-0700
jshaw@shawkeller.com
kkeller@shawkeller.com
arussell@shawkeller.com
dfry@shawkeller.com

Counsel for Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.

#### OF COUNSEL:

Jay H. Reiziss Natalie A. Bennett McDermott Will & Emery LLP 500 North Capitol Street, N.W. Washington, DC 20001 Tel: (202) 756-8000

Charles M. McMahon Hersh H. Mehta McDermott Will & Emery LLP 227 West Monroe Street Chicago, IL 60606 Tel: (312) 372-2000

#### RICHARDS, LAYTON & FINGER, P.A.

By: /s/ Travis S. Hunter

Kelly E. Farnan (#4395) Travis S. Hunter (#5350) 920 N. King Street Wilmington, Delaware 19801

Tel: (302) 651-7700 farnan@rlf.com hunter@rlf.com

Counsel for Defendant ZTE (USA) Inc.

#### OF COUNSEL:

Richard A. Cederoth SIDLEY AUSTIN LLP One South Dearborn Street Chicago, IL 60603 Tel: (312) 853-7000

Ellen S. Robbins SIDLEY AUSTIN LLP 555 West Fifth Street Los Angeles, CA 90013 Tel: (213) 896-6000

Joseph A. Micallef Wonjoo Suh Anna M. Weinberg SIDLEY AUSTIN LLP 1501 K Street, N.W. Washington, DC 20005 Tel: (202) 736-8000

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MORRIS, NICHOLS, ARSHT & TUNNELL LLP

By: /s/Rodger D. Smith II

Rodger D. Smith II (#3778) Jeremy A. Tigan (#5239) 1201 North Market Street P.O. Box 1347

Wilmington, DE 19801

Tel: (302) 658-9200 rsmith@mnat.com jtigan@mnat.com

Counsel for Defendants Microsoft Corporation, Microsoft Mobile Oy, and Microsoft Mobile Inc. (f/k/a Nokia Inc.)